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| APPLICATION NO.                                                                                | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|------------------------------------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 10/059,160                                                                                     | 01/31/2002  | Pierre Gagnon        | 213-31B-1           | 7606             |
| 23863                                                                                          | 7590        | 05/24/2004           | EXAMINER            |                  |
| LESPERANCE & MARTINEAU<br>1440 WEST<br>STE-CATHERINE ROOM 700<br>MONTREAL, QC H3G1R8<br>CANADA |             |                      | LOWE, MICHAEL S     |                  |
|                                                                                                |             |                      | ART UNIT            | PAPER NUMBER     |
|                                                                                                |             |                      | 3652                |                  |

DATE MAILED: 05/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/059,160

Applicant(s)

GAGNON ET AL.

Examiner

M. Scott Lowe

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 16-27 is/are pending in the application.
- 4a) Of the above claim(s) 1, 16-23 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 2, 5-13 and 24-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

The previous office action indicated that claims 3 & 4 were withdrawn as being non-elected. However, the latest submitted set of claims does not have these claims indicated as withdrawn. For sake of examination it is assumed that this was an inadvertent mistake. However, this must be corrected in future correspondence.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2,5-7,10,13, are rejected under 35 U.S.C. 102(b) as being anticipated by Cook (US 4,252,495).

Re claims 2,13, Cook teaches a system for selectively moving articles into and out of a number of loading area, said system having mutually transverse longitudinal and lateral axes and directions, said system comprising a carriage 5 having full movement capability and able to deposit or retrieve an article at any point, said system further comprising a bogie 3 and carrying said carriage along a continuous range of lateral distances, said carriage 5 being independently movable relative to said bogie 3 and movable on and off said bogie 5.

Re claim 5, Cook teaches either the article 2 or the carriage 3 being indexable to a predetermined position.

Art Unit: 3652

Re claim 6, Cook teaches that the longitudinal and lateral axes may define a horizontal plane.

Re claim 7, Cook teaches the longitudinal and lateral axes may be perpendicular.

Re claim 10, Cook teaches said number of loading areas definable in longitudinal dimensions of equal value.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8,9,11,12, are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook (US 4,252,495) in view of Birkenfeld (US 4,171,178).

Re claims 8,9, Cook is silent on conveyors. Birkenfeld teaches a vertically spaced conveyor for conveying articles to or from a bogie and carriage. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Cook by Birkenfeld in order have a vertically spaced conveyor for conveying articles to or from the bogie and carriage.

Re claim 11, Cook as modified teaches said conveyor may be parallel to said lateral axis.

Re claim 12, Cook as modified teaches said conveyor elevated relative to said horizontal plane.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cook (US 4,252,495) in view of Hara (US 4,941,794).

Re claim 24, Cook is does not teach the carriage being autonomous. Hara teaches an autonomous carriage in order to reduce labor (column 2, line 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Cook by Hara to have the carriage be autonomous in order to reduce labor.

Claims 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook (US 4,252,495) in view of Hara (US 4,941,794) and Birkenfeld (US 4,171,178).

Re claim 25, Cook is silent on automated article handlers (conveyors). Birkenfeld teaches a vertically spaced conveyor (automated article handler) for conveying articles to or from a bogie and carriage. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Cook by Birkenfeld in order have a vertically spaced conveyor for conveying articles to or from the bogie and carriage.

Re claim 26, Cook as already modified teaches simultaneous movement capability.

Re claim 27, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Cook to have a duplicate carriage in order to have a spare ready in case the carriage needs repair.

**Conclusion**

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Shaffer (US 4,057,019) teaches automation means for a vehicle.

Nakano (US 6,535,790) teaches a autonomous device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is 703-305-1940. The examiner can normally be reached on 6:30am-4:30pm M,Tu,Th,F.

Art Unit: 3652

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

msl



KATHY MATECKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600